REMARKS

The Office Action dated June 14, 2005 has been received and considered. In this response, claims 1, 13, 15-17, 23 and 31 have been amended and claim 2 has been canceled without prejudice or disclaimer. Reconsideration of the outstanding objections and rejections in the present application therefore is respectfully requested based on the following remarks.

Allowability of Claims 8, 9, 15, 17, 23-30 and 32-34

The Applicant notes with appreciation the indication at sections 11 and 12 that claims 23-30 are allowed and claims 8, 9, 14, 17 and 32-34 would be allowable if rewritten in independent form including the features of the base claims and any intervening claims. Claims 23-30 have been amended to improve their form.

Non-Statutory Rejection of Claims 1-22 and 31-36

At section 4 of the Office Action, claims 1-22 and 31-36 are rejected under 35 U.S.C. Section 101 because the claimed invention is allegedly directed to non-statutory subject matter. This rejection is respectfully traversed.

Specifically, the Office Action alleges that "independent claims 1, 13, 31 do not appear any computer hardware to implement the claimed invention." The Office Action further asserts that the invention of independent claims 1, 13 and 3 "appearing to be comprised of software alone without claiming associated computer hardware required for execution, is not supported by either a specific and substantial asserted utility (i.e., transformation of data) or a well established utility (i.e., a practical application). The Applicant respectfully disagrees. Claim 1 recites the features of: loading device-independent driver code into memory, wherein the device independent driver code forms a first portion of a display driver; and loading a particular device-specific driver portion into kernel mode memory, wherein the device-specific driver portion forms a second portion of the display driver. As one of ordinary skill in the art will appreciate, loading code into kernel mode memory as provided by claim 1 is a physical processes requiring manipulation of the structure of the memory and therefore is not an "act" that "manipulates only numbers, abstract concepts or ideas . . ." *In re Schrader*, 22 F.3d 290 at 294-34, 30 USPQ2d 1455 at 1458-59 (Fed. Cir. 1994). Moreover, one of ordinary skill in the art will appreciate that

the invention of claim 1 as a whole accomplishes a practical application with well established utility, namely the loading of a device driver into kernel mode memory (which then can be implemented by a processing system to interface with the corresponding device, as will be recognized by a skilled artisan). Claim 1 therefore is directed to statutory subject matter.

Claim 13 has been amended to recite the features of:

> providing a set of device-independent functions, wherein the device-independent functions are capable of manipulating a processor to support a plurality of different display devices;
>
> providing a plurality of device-specific driver portions, wherein each device-specific driver portion of the plurality of device-specific driver portions include functions capable of manipulating a processor to support only a portion of the plurality of different display devices;
>
> providing a first function to manipulate a processor to load one or more device-independent functions of the set of device-independent functions into kernel mode memory;
>
> providing a second function to manipulate a processor to request for a device identifier after the one or more device-independent functions are loaded into kernel mode memory, wherein the device identifier is capable of identifying a particular display device of the plurality of different display devices; and
>
> providing a third function to manipulate a processor to load a particular device-specific driver portion into kernel mode memory, wherein the particular device-specific driver portion is associated with the particular display device of the plurality of different display devices.

Thus, claim 13 provides that the recited functions are to manipulate a processor to implement the corresponding task. Claim 13 therefore recites both software and a machine to (i.e., a processor) implement the software. Moreover, the method of claim 13 accomplishes the loading of a device driver into kernel mode memory, which as noted above with respect to claim 1, provides a well established utility.

Claim 31 has been amended in a manner similar to claim 13. Claim 31 therefore is directed to statutory subject matter for at least the reasons provided with respect to claim 13.

In view of the foregoing, it is respectfully submitted that the non-statutory subject matter rejection of claims 1-22 and 31-36 is improper at this time. Reconsideration and withdrawal of this rejection therefore is respectfully requested.

Written Description Rejection/Essential Elements Rejection of Claims 1-22 and 31-36

At sections 5 and 6 of the Office Action, claims 1-22 and 31-36 are rejected under 35 U.S.C. Section 112, first paragraph and second paragraph, respectively. These rejections are respectfully traversed.

With respect to the rejection under Section 112, first paragraph, the Office Action asserts that "since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility . . ., one skilled in the art clearly would not know how to use the claimed invention." As noted above, claims 1-22 and 31-36 accomplish the loading of a device driver into kernel mode memory, which provides the well established utility of facilitating the interfacing of a processing system with a particular device. Reconsideration and withdrawal of the Section 112, first paragraph rejection of claims 1-22 and 31-36 therefore is respectfully requested.

With respect to the rejection under Section 112, second paragraph, the Office Action states that claims 1-22 and 31-36 are incomplete merely because they allegedly do not recite computer hardware necessary to execute the claimed software and therefore render the invention operative. However, it is respectfully submitted that this bare assertion fails to establish a *prima facie* case for the Office's assertion that claims 1-22 and 31-36 omit essential elements because the Office Action fails to provide any sufficient reason why the alleged missing elements are necessary for the claims to particularly point out and distinctly claim the subject matter regarded as the invention. Moreover, as noted above, independent claims 13 and 31 provide that the recited functions are to manipulate a processor to implement the corresponding task and therefore recite both software and a machine to implement the software. Reconsideration and withdrawal of the Section 112, second paragraph rejection of claims 1-22 and 31-36 therefore is respectfully requested.

Obviousness Rejection of Claims 1-4, 7, 10, 13, 14, 20, 21, 31 and 35

At section 7 of the Office Action, claims 1-4, 7, 10, 13, 14, 20, 21, 31 and 35 are rejected under 35 U.S.C. Section 103(a) as being unpatentably over Bondy (U.S. Patent No. 5,491,813) in view of Kathail (U.S. Patent No. 5,802,365). This rejection is respectfully traversed.

Claim 1, from which claims 3, 4, 7 and 10 depend, has been amended to substantially recite the features of claim 2 (now canceled). Claim 1 therefore presently recites the features of loading device-independent driver code into kernel mode memory and requesting a device identifier after loading the device-independent driver code into kernel mode memory, wherein the device identifier is to identify a particular device. The Office Action asserts that "Bondy teaches requesting a device identifier (Silicon [Graphics], graPHIGS) to identify the particular device (graphic devices), after the step of loading device-independent driver code into kernel mode memory and before the step of receiving the device identifier" and cites the passage of Bondy at col. 4, lines 55-58 in support of this assertion. *Office Action*, p. 5. For ease of reference, this cited passage of Bondy is reproduced: "For example, the 2D model 10 is based upon the X-Windows product, whereas 3D models 30 and 20 are based upon the Silicon Graphics, Inc., GL package and the IBM graPHIGS product." *Bondy*, col. 4, lines 55-58. Contrary to the assertions of the Office Action, this cited passage of Bondy fails to disclose, or even suggest, requesting a device identifier after loading device-independent driver code into kernel mode memory as recited by claim 1. Moreover, no other passage of Bondy discloses or suggests this feature. The Office Action does not assert that Kathail discloses or suggests this feature. The proposed combination of Bondy and Kathail therefore fails to disclose or suggest each and every feature recited by claim 1.

Claim 13, from which claims 14, 20 and 21 depend, recites the features of providing a second function to manipulate a processor to request for a device identifier after one or more device-independent functions are loaded into kernel mode memory. Claim 31, from which claim 35 depends, recites similar features. As similarly discussed above, Bondy and Kathail fail to disclose or suggest, individually or in combination, requesting a device identifier after one or more device-independent functions are loaded into kernel mode memory. The proposed combination of Bondy and Kathail therefore fails to disclose or suggest each and every feature recited by claims 13 and 31.

The proposed combination of Bondy and Kathail fails to disclose or suggest the additional features recited by claim 3, 4, 7, 10, 14, 20, 21 and 35 at least by virture of their dependency from one of independent claims 1, 13 or 31. Moreover, these dependent claims recite additional non-obvious features.

In view of the foregoing, it is respectfully submitted that the obviousness rejection of claims 1-4, 7, 10, 13, 14, 20, 21, 31 and 35 is improper at this time. Reconsideration and withdrawal of this rejection therefore is respectfully requested.

Obviousness Rejection of Claims 5, 6, 11, 12, 16, 18, 19, 22 and 36

At section 8 of the Office Action, claims 5, 6, 18 and 19 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Bondy in view of Kathail and further in view of Keller (U.S. Patent No. 5,752,032). At section 9 of the Office Action, claims 11, 12, 22 and 36 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Bondy in view of Kathail and further in view of Schoening (U.S. Patent No. 6,226,788). At section 10 of the Office Action, claim 16 is rejected under 35 U.S.C. Section 103(a) as being unpatentable over Bondy in view of Kathail and further in view of Shirakabe (U.S. Patent No. 5,136,709). These rejections are respectfully traversed.

As discussed above, the proposed combination of Bondy and Kathail fails to disclose or suggest each and every feature recited by claims 1, 13 and 31, from which claims 5, 6, 11, 12, 16, 18, 19, 22 and 36 correspondingly depend. The Office Action does not assert that the features of claims 1, 13 and 31 lacking in the disclosures of Bondy and Kathail are disclosed by Keller, Shoening or Shirakabe, nor are these features in fact disclosed by any of the cited references. The proposed combinations of Bondy, Kathail, Keller, Shoening and Shirakabe therefore fail to disclose or suggest the additional features of claims 5, 6, 11, 12, 16, 18, 19, 22 and 36 at least by virtue of their dependency from one of claims 1, 13 and 31. Moreover, these dependent claims recite non-obvious features.

In view of the foregoing, it is respectfully submitted that the obviousness rejections of claims 5, 6, 11, 12, 16, 18, 19, 22 and 36 are improper at this time. Reconsideration and withdrawal of these rejections therefore is respectfully requested.

Conclusion

The Applicant respectfully submits that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present

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application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-0441.

Respectfully submitted,

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Date

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